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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,749	05/02/2007	Marcel Boosten	NL040119US1	5778

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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FONTENOT, NIGEL RAI

ART UNIT	PAPER NUMBER
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3768

MAIL DATE	DELIVERY MODE
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06/24/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,749	<b>Applicant(s)</b> BOOSTEN, MARCEL	
	<b>Examiner</b> NIGEL FONTENOT	<b>Art Unit</b> 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is responsive to the Amendments/Arguments filed 1/4/2010. Claims 18-35 are still pending.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/4/2010 has been entered.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 18-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Strommer et al. (US 2005/0033149).

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4. Addressing claims 18 and 27, Strommer discloses a system and method for controlling an interventional procedure in an organ of a patient (see abstract) comprising: an intervention device comprising detectable markers positioned within the target organ, a displaceable catheter, and a stereotactic navigation system to position the detectable markers and displaceable catheter (see para 83); an imaging unit arranged to acquire images of the target organ along with the detectable markers and the displaceable catheter (see paras 96-102); a computing unit configured to carry out the steps calculating a motion-corrected organ-oriented three-dimensional coordinate system based on the images (see paras 96-102); generating a spatial roadmap representing an envisaged trajectory of the displaceable catheter within the coordinate system by interrelating the spatial positions of the detectable markers with interactive user input to alter or redraw the roadmap (see paras 96-102), monitoring the spatial position of the displaceable catheter; determining a discrepancy between the spatial position of the displaceable catheter and the roadmap and calculating a navigational correction (see paras 43 and 96-102); and controlling the navigation system to apply the navigational correction to the position of the displaceable catheter (see paras 96-102); and a user interface arranged to display images of the target organ, the spatial position of the detectable markers, the displaceable catheter, and the roadmap (see paras 96-102); and a control screen displaying the correction to be applied to the navigation system and accepting interactive user input for the correction (see paras 96-102).

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5. Addressing claims 19-26 and 28-35, Strommer discloses the computing unit configured to carry out the steps: monitoring the spatial position of the detectable markers; determining a displacement of a detectable marker; recalculating the roadmap based on the displacement; and sending a signal to the navigation system to automatically position the displaceable catheter (see paras 96-102), further comprising an imaging unit arranged to acquire high resolution images (see para 71), further comprising the imaging unit employing an X-ray beam or magnetic resonance acquisition (see para 71), further comprising an imaging unit arranged to acquire images by rotational scan of an X-ray source around the target organ (see para 71), the intervention device further comprising a catheter adapted to measure cardiac action potentials within the target organ (see paras 84-87), wherein the roadmap is arranged to represent a burning path for an ablating catheter (see para 56), sending a signal to warn the operator of a change in configuration of the detectable markers (see paras 96-102), further comprising the user interface arranged to display actual electrical activity of tissue of the target organ (see paras 84-87).

### ***Response to Arguments***

6. Applicant's arguments filed 1/4/2010 have been fully considered but they are not persuasive. In response to Applicant's argument that Strommer does not apply of a navigational correction to the position of an item that is calculated based on the discrepancy that is determined between the spatial position of that item and a spatial

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roadmap representing an envisaged trajectory of the item, Strommer performs this step by generating a coordinate system using the device and markers, then takes an image to determine position and orientation of the marker and then generates a 3D image to register with the 2D image of the current position. Strommer then makes a visual representation of the distal end of the device and a real time image of the device and superimposes this position. Therefore, Strommer generates a spatial roadmap representing an envisaged trajectory, determines a discrepancy by registering the images and coordinate systems, and controls the navigation system to apply the navigational correction, as can be seen in figs. 2C-2D and 3A-3D and the above cited paragraphs, and therefore Strommer still reads on the claims as they are currently written.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIGEL FONTENOT whose telephone number is (571)270-7032. The examiner can normally be reached on Monday-Friday (7:00a-4:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. F./  
Examiner, Art Unit 3768

/Long V Le/  
Supervisory Patent Examiner, Art Unit 3768